
1992 Wis Eth Bd 10
LOCAL OFFICIALS -- DISQUALIFICATION

A local public official is not disqualified from participating in the award of a contract to a business simply because that business is involved in an unrelated joint venture with the official's employer. OEB 92-10

March 24, 1992

Facts

- [1] This opinion is based upon these understandings:
- a. You are the attorney for a town.
 - b. A town supervisor is the employee of a business that owns a one-half interest in a company, the other half of which is owned by Corporation A.
 - c. The town may consider awarding a contract to Corporation A for activities unrelated to the jointly-owned company.

Question

- [2] The Ethics Board understands your question to be:

Consistent with the Code of Ethics for Public Officials, may the town supervisor participate in a decision to award a town contract to Corporation A?

Discussion

- [3] The Ethics Code provisions most pertinent to the described situation are §§19.59(1)(c)1. and 2., *Wisconsin Statutes*. Those provisions provide:

19.59(1)(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.
2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's

immediate family either separately or together, or an organization with which the official is associated.

[4] The Town supervisor is not "associated" with Corporation A simply because the supervisor's employer and Corporation A are co-owners of a business.¹ That the supervisor's employer might somehow benefit from a contract awarded to Corporation A is not consequential as long as the supervisor's income and status with his or her employer will not be affected by a contract award. Absent other factors, it does not appear that the town supervisor will receive any benefit, either direct or indirect, should Corporation A be awarded the contract. For these reasons, it does not appear that the supervisor's participation in contract decisions of the kind described would violate the Ethics Code for Public Officials and Employees.

Advice

[5] The town supervisor is not disqualified from participating in the award of a contract to a business simply because that business is involved in an unrelated joint venture with the supervisor's employer.

¹

* § 19.42(2), *Wisconsin Statutes*, provides:

19.42(2) "Associated", when used with reference to an organization, includes any organization in which an individual or a member of his or her immediate family is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity.